



# Senate

General Assembly

**File No. 460**

February Session, 2004

Substitute Senate Bill No. 3

*Senate, April 6, 2004*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE DUTIES OF THE CONSERVATOR OF A PERSON.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-656 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) The conservator of the person shall have: (1) The duty and  
4 responsibility for the general custody of the respondent; (2) the power  
5 to establish his or her place of abode within the state; (3) the power to  
6 give consent for his or her medical or other professional care, counsel,  
7 treatment or service; (4) the duty to provide for the care, comfort and  
8 maintenance of the ward; (5) the duty to take reasonable care of the  
9 respondent's personal effects; and (6) the duty to report at least  
10 annually to the probate court which appointed the conservator  
11 regarding the condition of the respondent. The preceding duties,  
12 responsibilities and powers shall be carried out within the limitations  
13 of the resources available to the ward, either through [his] the ward's

14 own estate or through private or public assistance.

15 (b) The conservator of the person shall not have the power or  
16 authority to cause the respondent to be committed to any institution  
17 for the treatment of the mentally ill except under the provisions of  
18 sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, as  
19 amended, 17a-495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive,  
20 as amended, 17a-560 to 17a-576, inclusive, 17a-615 to 17a-618,  
21 inclusive, and 17a-621 to 17a-664, inclusive, and chapter 359.

22 (c) If the conservator of the person determines it is necessary to  
23 cause the ward to be placed in an institution for long-term care, the  
24 conservator shall file a report of such action with the probate court that  
25 appointed the conservator prior to placing the ward in such institution.  
26 The report shall set forth the basis for the conservator's determination,  
27 what community resources have been considered and the reasons why  
28 the ward's physical, mental and psychosocial needs cannot be met in a  
29 less restrictive and more integrated setting. Such community resources  
30 include, but are not limited to, resources provided by the area agencies  
31 on aging, the Alternate Care Unit of the Department of Social Services,  
32 congregate or subsidized housing, the Office of Protection and  
33 Advocacy for Persons with Disabilities, the Department of Mental  
34 Health and Addiction Services, the Department of Mental Retardation  
35 and any local Center for Independent Living. The conservator shall  
36 give notice of such action and a copy of such report to the ward and  
37 other interested parties as determined by the court. Upon the request  
38 of such interested party, the court shall hold a hearing on such action  
39 and report not later than thirty days after the date of the request. The  
40 court may also, in its discretion, hold a hearing on such action and  
41 report in any case where no request is made. If the court, after such  
42 hearing, determines that the ward's physical, mental and psychosocial  
43 needs can be met in a less restrictive and more integrated setting  
44 within the limitations of the resources available to the ward, either  
45 through the ward's own estate or public assistance, the court shall  
46 order that the ward be placed and maintained in such setting. For  
47 purposes of this subsection, an "institution for long-term care" means a

48 facility that has been federally certified as a skilled nursing facility or  
49 intermediate care facility.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

**AGE**      *Joint Favorable Subst. C/R*

JUD

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Probate Court	PCAF - None	None	None
Mental Health & Addiction Serv., Dept.; Mental Retardation, Dept.; Protection & Advocacy, Off.; Social Services, Dept.	GF - None	None	None

Note: PCAF=Probate Court Administration Fund; GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill provides that when placing a ward in a long-term care institution, a conservator must do so in the least restrictive and most integrated setting that meets the needs of that ward. The bill seeks to accomplish this by specifying the information that should be included in a conservator's report to petition the probate court. Passage of the bill would not result in any fiscal impact to the court.

In addition, the bill would not result in any additional costs to the Departments of Mental Retardation, Mental Health and Addiction Services, Social Services; and the Office of Protection and Advocacy as the bill's provision on "within the limitations of resources available" does not increase the agencies' placement mandates. Currently, the option of less restrictive and integrated settings is provided within the funding availability of agencies.

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**OLR Bill Analysis**

sSB 3

***AN ACT CONCERNING THE DUTIES OF THE CONSERVATOR OF A PERSON*****SUMMARY:**

If the conservator of a person determines it is necessary to place his ward in a long-term care institution (a federally certified skilled nursing facility or intermediate care facility), this bill requires the conservator, prior to the placement, to file a report with the probate court that appointed him conservator. The report must state:

1. the basis for the conservator's determination;
2. what community resources have been considered, including those offered through area agencies on aging, the Department of Social Services' Alternate Care Unit, congregate or subsidized housing, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Mental Retardation, and local Centers for Independent Living; and
3. the reasons why the ward's physical, mental, and psychosocial needs cannot be met in a less restrictive and more integrated environment.

Under the bill, the conservator must give notice of the action and a copy of the report to the ward and other interested parties that the court determines. At an interested party's request, the court must hold a hearing on the action and the report within 30 days after the request's date. The bill also allows the court to hold such a hearing even though no request is made. If the court then decides that the ward's physical, mental, and psychosocial needs can be met in a less restrictive and more integrated setting within the limits of resources available to the ward, either through his own estate or through public assistance, the bill requires the court to order that the ward be placed in such a setting.

EFFECTIVE DATE: October 1, 2004

**COMMITTEE ACTION**

Select Committee on Aging

Joint Favorable Substitute Change of Reference

Yea 8      Nay 1

Judiciary Committee

Joint Favorable Report

Yea 42      Nay 0